



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: CCB - 206599

PRELIMINARY RECITALS

Pursuant to a petition filed on October 14, 2022, under Wis. Admin. Code §HA 3.03(4), to review a decision by the St. Croix County Health & Human Services regarding Child Care (CC), a hearing was held on December 22, 2022, by telephone.

The issue for determination is whether the DOA Division of Hearings and Appeals has jurisdiction to rule on petitioner's appeal of the expungement of her CC benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 West Washington Avenue
Madison, WI 53703

By: Rebecca Arbs
St. Croix County Health & Human Services
1752 Dorset Lane
New Richmond, WI 54017-1063

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of St. Croix County.
2. On August 19, 2022 and October 4, 2022, the agency issued Notices of Eligibility, Wisconsin Shares Child Care to the petitioner informing her that she was eligible to receive Shares subsidies

3. On July 21, 2022, the agency issued a Wisconsin Shares Child Care Parent Notice, Quarterly Authorization Information, to the petitioner informing her of her authorized hours. The notice further informed the petitioner of her responsibility to manage her subsidy amounts and pay the provider. In addition, the notice provided the website address for the petitioner to obtain her most recent authorized subsidy information, request new authorizations, or make changes to existing authorizations. The notice informed the petitioner that subsidy funds are available on the 1st day of the month. They additionally state as follows: “If you do not use your Wisconsin Shares Child Care subsidy funds within 90 days, the funds will drop off from your MyWICChildCare card. The payment system works on a last in-first out cycle. Examples of this can be found by visiting dcf.wisconsin.gov/mywchildcare/parents/parent-tips and clicking on “Why Did Child Care Funds Drop Off My Card?””
4. In July of 2022, Wisconsin Shares subsidies were loaded to the Petitioner’s card. No payments were made to the provider during this time. Subsidies were expunged from her card on September 30, 2022, after 90 days.
5. On October 14, 2022, the petitioner filed an appeal with the Division of Hearings and Appeals (DHA).

DISCUSSION

The issue here is whether DHA has jurisdiction over this matter and, if so, whether the agency correctly removed expired child care subsidies from the Petitioner’s EBT card.

According to the Department of Children and Families (DCF) Wisconsin Shares regulations, a subsidy payment expires 90 days after the date that the department issues the payment to the parent. See Wisconsin Administrative Code, § DCF 201.04(2)(c) and Wisconsin Shares Child Care Subsidy Policy Manual, §§ 2.7 and 3.3.4.4.

The Wisconsin Administrative Code, chapter DCF states explicitly as follows:

201.065(1)(d) No appeal of payment expiration. A parent may not appeal the expiration of a subsidy payment under s. DCF 201.04 (2) (c).

Because DHA has the power to hear only those matters that are delegated to it by DCF, I must conclude that DHA has no jurisdiction over this matter because the Administrative Code explicitly states that there is no right of appeal for this issue. At the hearing, the petitioner argued that as a single mother of three and full-time student, this oversight should be corrected. While I empathize with her argument, the Petitioner is requesting an exception to the Wisconsin Administrative Code or equitable relief from the Code. An administrative law judge is not authorized to provide equitable relief based upon a determination of what is fair. I conclude the petitioner does not have an appeal right for the expiration of subsidy funds and DHA does not have jurisdiction to provide the relief she requests.

CONCLUSIONS OF LAW

DHA does not have jurisdiction over the issue of expiration of Wisconsin Shares subsidies.

THEREFORE, it is

ORDERED

That the petitioner’s appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

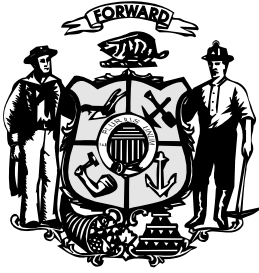
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 West Washington Avenue, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 23rd day of January, 2023

\s 

Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 23, 2023.

St. Croix County Health & Human Services
Child Care Benefits

